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and Other Cruel, Inhuman
or Degrading Treatment
or Punishment

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COMMITTEE AGAINST TORTURE

Fifteenth session

SUMMARY RECORD OF THE SECOND PART (PUBLIC)* OF THE 237th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 20 November 1995, at 3.45 p.m.

Chairman: Mr. DIPANDA MOUELLE

CONTENTS

Consideration of reports submitted by States parties under article 19 of the Convention (continued)

Initial report of Guatemala (continued)

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* The summary record of the first part (closed) of the meeting appears in document CAT/C/SR.237.

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The second part (public) of the meeting was called to order at 3.45 p.m.

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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 4) (continued)

Initial report of Guatemala (continued) (CAT/C/12/Add.5; CAT/C/12/Add.6; HRI/CORE/1/Add.47):

Conclusions of the Committee

1. At the invitation of the Chairman, the Guatemalan delegation took seats at the Committee table.

2. The CHAIRMAN invited Mr. SORENSEN (Country Rapporteur) to present the conclusions adopted by the Committee in a closed meeting concerning the two reports submitted by Guatemala.

3. Mr. SORENSEN (Country Rapporteur) read out, in the English language version, the following text:

"1. The Committee considered the initial report of Guatemala (CAT/C/12/Add.5 and 6) at its 232nd and 233rd meetings, on 16 November 1995 (CAT/C/SR.232 and 233/Add.1 and 3), and has adopted the following conclusions and recommendations:

A. Introduction

2. The Committee thanks the Government of Guatemala for its report. It also listened with great interest to the informative oral statement made by its representatives. The Committee wishes to thank them for their replies and for the spirit of openness and cooperation in which the dialogue took place.

B. Positive aspects

3. The Committee welcomes the honesty and frankness of the report acknowledging that torture occurs in Guatemala.

4. The Committee considers that the present peace process and the Government of Guatemala's cooperation with the United Nations are signs of progress.

5. The Committee welcomes legal changes that have been made by the State party, including the definition of torture and penalties associated with that crime which are incorporated into the penal law. The Committee is also pleased to note that the Government of Guatemala has amended the Code of Criminal Procedure to deal with human rights breaches, and that it has abolished the military commissioners.

6. The Committee also welcomes the creation of various organs to reinforce human rights, including the Procurator for Human Rights, the Presidential Coordinating Committee for Government Human Rights Policy (COPREDEH) and national human rights committees.

7. The Committee is also pleased to note Guatemala's commitment to human rights education.

8. The Committee is further pleased to learn that Guatemala has begun the process of making the declaration under article 22 of the Convention and that its representatives do not see any obstacle to such a declaration.

C. Factors and difficulties impeding the application of the Convention

9. The Committee acknowledges that Guatemala is in a difficult situation since the civil democratic Government is obstructed in its action by a deeply entrenched army and police culture.

10. The Committee also takes note of the wide disparity in the distribution of the economic wealth in the country creating conditions that may tend towards confrontation between the law enforcement organs and those parts of the population which are at the lowest end of the economic and social scale. In this respect, the Committee wishes to underline that the individual recourse procedure provided for under article 22 of the Convention would constitute a useful preventive measure once it has been accepted by the Government.

11. The Committee considers that the right of the citizens to carry firearms, which is enshrined in the Constitution, may be regarded as a potential obstacle to a full implementation of the Convention.

D. Subjects of concern

12. The Committee notes with deep concern that torture and other cruel, inhuman or degrading treatment or punishment appear to be endemic in Guatemala, and to include many children among its victims.

13. The Committee is equally concerned at the State's continued failure promptly and impartially to investigate and prosecute those responsible for an act of torture and ill-treatment.

14. The de facto impunity for perpetrators of torture resulting from the above-mentioned facts and the weakness shown by the judicial, administrative and police authorities in enforcing the law is likewise a matter of deep concern to the Committee.

15. The Committee is also concerned at the fact that paramilitary groups and private defence patrols still exist and operate in Guatemala.

E. Recommendations

16. The Committee recommends that the Government of Guatemala take the following measures:

(a) Strengthening, in a more significant manner, the activities of the Procuracy of Human Rights;

(b) Organizing intensive programmes of technical training for the police, prosecutors and judges;

(c) Providing means and material resources that are necessary for public law enforcement officials to fulfil their mandates;

(d) Adopting measures providing for an effective coordination between the police and the prosecutors;

(e) Protecting witnesses, judges and prosecutors from threats and intimidations;

(f) Imposing severe sanctions for those public officials who do not comply with their duty of applying the law;

(g) Completely abolishing the so-called Voluntary Committees of Civic Defence;

(h) Changing the legal provisions concerning the military jurisdiction, in order to limit the jurisdiction of military judges exclusively to military crimes;

(i) Reducing the authorization to carry firearms to the minimum strictly indispensable."

4. The CHAIRMAN invited the Guatemalan delegation to voice their comments regarding the Committee's conclusions.

5. Mr. URRUELA PRADO (Guatemala) said that he would transmit the Committee's conclusions to his Government. He pointed out that Guatemala had incorporated the offence of torture in its penal code because of the social and political conditions prevailing in the country. It was extremely difficult to negotiate peace with groups on the extreme left that did not accept the democratic regime. Although there was no real military problem, it was political factors that had hampered the country's economic and social development. He thanked the Committee for its attention and hoped that the contact established would mark the beginning of a good working relationship.

6. The CHAIRMAN thanked the Guatemalan delegation sincerely for its spirit of openness and for the information provided in the report.

7. The delegation of Guatemala withdrew.

The second part (public) of the meeting rose at 4 p.m.